



Office of the City Manager

CONSENT CALENDAR

October 27, 2026

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

Submitted by: Jamie Parks, Director, Public Works

Subject: Companion Report: Enforceable Mechanism for Berkeley Green Code Compliance

RECOMMENDATION

Direct the City Manager to assign the Public Works Department, in conjunction with the Planning and Development Department, to:

1. Review and consider research conducted by the Zero Waste Commission and UC Berkeley student researchers on enforcement mechanisms in other jurisdictions; and,
2. Develop a recommendation for City Council to adopt an appropriate enforcement mechanism(s) to strengthen compliance with California Green Building Standards Code by adding to Berkeley Green Code (BMC 19.37).

SUMMARY

The City seeks to develop a clear and enforceable process for addressing non-compliance with construction and demolition (C&D) waste diversion requirements in the Berkeley Green Code. Currently, the Green Code does not provide a clear enforcement pathway when contractors fail to meet diversion requirements. Based on the Zero Waste Commission's recommendations, City staff will evaluate and then recommend specific enforcement mechanisms to the City Council that will improve compliance with state and city waste diversion requirements. It is anticipated that this work will be substantially completed by the end of 2026, and that staff will bring a recommendation to City Council no later than Spring 2027.

FISCAL IMPACTS OF RECOMMENDATION

The Public Works and Planning and Development departments have agreed to allocate 42 hours of staff time to meet to review research provided by the Zero Waste Commissioners and UC Berkeley student researchers. As outlined in the table below, the anticipated cost will be \$5,802.23 in staff time. Staff costs will be reimbursed by CalRecycle Local Assistance Grant Funds-Fund 336-One-Time Grant Fund.

Estimated Personnel Costs Enforceable Mechanism for Berkeley Green Code Compliance			
Position	Hourly Personnel Costs	Hours	FY 2027 Estimated Costs
Building and Safety Manager	\$192.37	6	\$1,154.23
Assistant Building and Safety Manager	\$173.59	6	\$1,041.52
Program Manager II (2)	\$155.84	12	\$1,870.06
Community Services Specialist III	\$129.07	6	\$774.40
Recycling Program Manager	\$132.80	6	\$796.77
Intern	\$27.54	6	\$165.24
TOTAL		42	\$5,802.23

Staff plan to substantially complete this work in calendar year 2026 and bring a recommendation to City Council no later than Spring 2027.

CURRENT SITUATION AND ITS EFFECTS

The Zero Waste Commission Secretary reported on progress at each meeting beginning in 2024 and the first half of 2025 regarding implementing zero waste processes and procedures related to increasing CalGreen compliance. The Zero Waste Commission voted to move a referral to Council on June 19, 2025, requesting that staff submit a proposal to the City Council to adopt updated ordinance language to clarify a formal enforcement mechanism for the City to use to improve compliance with state mandated construction and demolition materials recycling rates. City staff support the Commission's action.

June 19, 2025 Zero Waste Commission Meeting

Item 3: Review Green Building Ordinance

Action Taken: M/S (de Tourney/Singh) to approve the Green Building Ordinance.

Ayes: Steven Sherman, Dennis Uyat, Philip Monrad, Sandra Curtis and Swasti

Johri; Nays: None; Abstentions: None; Absent: Layla Dargahi

Motion carried 7-0-0-1

The City originally adopted the Berkeley Green Code Chapter 19.37 on November 29, 2016, and the code went into effect on January 1, 2017. This adoption mandated 65-percent diversion of construction and demolition materials and 100-percent diversion of excavated soil, concrete, and asphalt. However, the Berkeley Municipal Code does not include a clear pathway to enforcing the waste diversion requirements. As a result, staff must rely on contractor self-reporting, which has led to noncompliance, including improper source separation, fraudulent, missing or late weight ticket uploads, and repeated violations by the same contractors.

Currently, the City requires all construction, demolition, and remodeling projects to submit a Construction Waste Management Plan and upload construction and demolition debris weight tickets to Green Halo, a cloud-based software platform. This platform is used by staff for waste tracking and approval or denial of submitted weight tickets that document compliance with the statewide 65-percent construction and demolition recycling requirement and the City's 100-percent recycling requirements for asphalt, cement and concrete. Public Works staff also provide technical assistance through office hours, educational outreach, site inspections, and early project reviews.

In 2025, 17-percent of contractors remained out of compliance with the Berkeley Green Code's construction and demolition debris diversion requirements. There is no current enforcement procedure within the Berkeley Green Code; this limits staff's ability to hold violators accountable. Actionable enforcement is essential for reducing landfill waste, cutting greenhouse gas emissions, protecting frontline communities, and advancing the City's climate and equity goals.

Mixed and improperly bagged debris, miscoded tickets, and unverifiable data further undermine diversion outcomes and staff oversight. Staff have identified forty (40) repeat offenders who have been out of compliance for over a decade. Repeat offenders pose the greatest challenge, particularly on high-value projects that generate large volumes of waste. Establishing a clear enforcement mechanism is a necessary next step to ensure compliance with state and local requirements, reduce the administrative burden on City staff who request information from non-responsive or uncooperative permittees, and to ensure that

permits are not finalized until the City receives all of the requested compliance documentation.

Staff cannot enforce mandated construction and demolition debris diversion requirements because there is currently no enforcement mechanism in the Berkeley Municipal Code. This gap in the municipal code creates ongoing challenges with compliance. Amending the code to allow for enforcement of CALGreen requirements will not materially slow development or reduce project feasibility. The 65-percent diversion requirement is already embedded in the Berkeley Green Code and applies to most permitted construction and demolition projects in Berkeley.

Developing a recommendation for the City Council to adopt enforcement mechanisms to strengthen compliance with California Green Building Standards Code advances the Strategic Plan goal to be a global leader in addressing climate change, advancing environmental justice, and protecting the environment. To wit, construction and demolition waste diversion is critical to reducing landfill use, greenhouse gas emissions, and environmental degradation.

BACKGROUND

CALGreen 4.408.2 and 5.408.1.1 are part of the California Green Building Standards Code's construction waste management provisions, specifically for Universal Waste.

4.408.2 – Universal Waste Management

- Applies to certain projects where Universal Waste is generated during construction or demolition.
- Requires verification that Universal Waste is managed correctly in accordance with applicable state and local regulations.
- A list of prohibited Universal Waste materials must be included in the project's construction documents.
- This is a mandatory compliance method for those projects that produce Universal Waste, ensuring it is not disposed of in a way that violates environmental regulations.

5.408.1.1 – Construction Waste Management Plan

- Applies when the project meets the C&D waste diversion threshold (≥ 65 -percent diversion or ≤ 2 lbs./ft² disposal for nonresidential; lower limits for residential) but must submit a Construction Waste Management Plan (CWMP).

The CWMP must:

- Outline the waste diversion and recycling strategy.
- Identify the methods and facilities used for diversion/recycling.
- Include a schedule for waste handling and disposal.
- Be updated as necessary during construction and accessible to the enforcing agency for inspection

Berkeley Green Code diversion requirements were adopted in the Berkeley Municipal Code as Chapter 19.37, requiring 65-percent of construction and demolition material be diverted from landfill, and 100-percent of excavated soil, concrete, and asphalt.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Effective enforcement of construction and demolition debris diversion is critical to reducing landfill use, cutting greenhouse gas emissions, protecting air and water quality, and preventing disproportionate health and environmental harms to low-income and minority communities, while supporting Berkeley's climate and environmental sustainability goals.

RATIONALE FOR RECOMMENDATION

Compliance challenges with construction and demolition debris diversion requirements primarily result from the absence of a clear path for the City to enforce the requirements. This limits staff's ability to hold contractors, particularly repeat and bad-faith offenders, accountable and underscores the need for a clear enforcement framework to support effective compliance.

ALTERNATIVE ACTIONS CONSIDERED

The alternative action to the proposed recommendation would be taking no action.

CONTACT PERSON

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